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7 UNITED STATES DISTRICT COURT
8 DISTRICT OF NEVADA

9 PROGRESSIVE NORTHERN
10 INSURANCE COMPANY,

11 Plaintiff,

12 v.

13 BRADLEY PERRY, et al.,

14 Defendants.

Case No. 3:17-cv-725-MMD-WGC

ACTING SECRETARY OF HHS's
MOTION FOR EXTENSION OF TIME IN
WHICH TO FILE RESPONSE TO
AMENDED COMPLAINT
(First Request)

15 Defendant Acting Secretary of U.S. Department of Health and Human Services (HHS),
16 through his undersigned counsel, moves this Court for an Order extending the time within which
17 he is required to file a responsive pleading to and including February 16, 2018. Counsel for
18 plaintiff does not object to the requested extension of time. The basis for this motion is as follows:

19 1. This interpleader action was originally filed in the Second Judicial District for the
20 State of Nevada (Washoe County). Among the several defendants named in the Amended
21 Complaint is the (former) Secretary of U.S. Department of Health and Human Services. Pursuant
22 to Rule 25(d), Fed.R.Civ.P., the current Acting Secretary of HHS is substituted as the proper HHS
23 defendant.

1 2. It is anticipated that HHS will assert a statutory entitlement to and priority interest
2 in the interpleaded funds.

3 3. On October 18, 2017, the Acting Secretary HHS filed his Notice of Removal (#1)
4 removing this interpleader action from the State Court to the Federal Court pursuant to 28 USC
5 § 1442(a).

6 4. Rule 81(c), Federal Rules of Civil Procedure, provides the time period to answer
7 a complaint in a removed action. The time period provided is the later of twenty-one (21) days
8 after service of the complaint or seven (7) days after removal, whichever is longer. However, an
9 officer or agency of the United States (such as HHS) would ordinarily be permitted a sixty (60)
10 day response time, calculated from the date of service of process, pursuant to Rule 12(a)(3),
11 Federal Rules of Civil Procedure.

12 5. At this time, it does not appear that service of process was effected on HHS prior
13 to removal of this action to this Court. HHS Office of General Counsel became aware of the State-
14 court interpleader action in late October 2017.

15 6. The usual sixty-day response time is needed to adequately evaluate the allegations
16 of the amended complaint, ascertain HHS's interest in the interpleaded funds, and to thereafter
17 prepare a response to the amended complaint.

18 7. No prior request has been made for the relief requested herein. The undersigned
19 spoke to plaintiff's counsel and was advised he has no objection to the requested extension.

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1 8. It is requested that the time for the Acting Secretary HHS to respond to the
2 amended complaint be extended to sixty days following the date of removal of this action, an
3 extension that would yield a deadline of February 16, 2018, for a response.

4 Respectfully submitted,

5 STEVEN W. MYHRE
6 Acting United States Attorney

7 /s/ Greg Addington
8 GREG ADDINGTON
9 Assistant United States Attorney

10 IT IS SO ORDERED.

11 Date: December 21, 2017.

12
13 William G. Cobb

14 UNITED STATES MAGISTRATE JUDGE
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